

Article - Alcoholic Beverages and Cannabis

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§1-323.

(a) (1) In this section the following words have the meanings indicated.

(2) “Advertise” includes packaging, labeling, or electronic communication.

(3) (i) “Retailer” means a person that:

1. sells, prepares, or maintains unauthorized consumable products; or

2. advertises, represents, or holds itself out as selling, preparing, or maintaining unauthorized consumable products.

(ii) “Retailer” includes the following persons, if the person otherwise meets the definition established under subparagraph (i) of this paragraph:

1. a manufacturer;
2. a wholesaler;
3. a store;
4. a restaurant;
5. a hotel;
6. a catering facility;
7. a camp;
8. a bakery;
9. a delicatessen;
10. a supermarket;
11. a grocery store;

12. a convenience store;

13. a gas station;

14. a food company; and

15. a drink company.

(4) “Unauthorized consumable product” means:

(i) a tianeptine product as defined in § 21–2D–01 of the Health – General Article;

(ii) a kratom product, as defined in § 21–2E–01 of the Health – General Article, that does not comply with Title 21, Subtitle 2E of the Health – General Article;

(iii) a phenibut product, as defined in § 21–2F–01 of the Health – General Article, that does not comply with Title 21, Subtitle 2F of the Health – General Article; and

(iv) a consumable product that contains a poisonous or deleterious substance in violation of a rule or regulation adopted under § 21–239(c) of the Health – General Article and is designated by the Secretary of Health for enforcement by the Executive Director.

(b) A retailer may not distribute, sell, expose for sale, or advertise for sale an unauthorized consumable product.

(c) The Executive Director may seize, confiscate, or destroy:

(1) an unauthorized consumable product that is offered, advertised, or displayed for sale to a consumer in the State; and

(2) a product that is labeled, advertised, represented, or offered for sale as containing:

(i) 7–hydroxymitragynine in an amount that:

1. for a kratom product, is greater than the amount permitted under § 21–2E–02(b)(1)(iii) of the Health – General Article; or

2. is greater than 1 milligram per serving;

- (ii) tianeptine sodium;
- (iii) tianeptine sulfate; or
- (iv) beta-phenyl-gamma-aminobutyric acid HCl.

(d) A product seized under subsection (c) of this section is presumed to be contraband and subject to summary forfeiture unless the person from whom the product was seized demonstrates the product is:

(1) if applicable, in compliance with Title 21, Subtitle 2E of the Health – General Article; or

(2) authorized for sale and distribution for the purposes of human consumption by:

- (i) the Maryland Department of Health; or
- (ii) the U.S. Food and Drug Administration.

(e) A retailer that violates subsection (b) of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000.

(f) In addition to the penalties established under this section:

(1) the District Court may order the Executive Director, the Comptroller, or the applicable local licensing board or commission to:

(i) suspend or revoke a license issued under this article or Title 16, 16.5, 16.7, or 17 of the Business Regulation Article; and

(ii) dispose of or destroy an unauthorized consumable product seized under subsection (c) of this section; and

(2) a retailer that violates this section is liable for civil damages sustained by an individual that result from the violation.

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